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1 just takes whatever is on the other page and
2 tallies it and puts it into a summary form
3 and gives you a general overview.

4 **Q Could it affect -- I mean could
5 it affect an employee's pay?**

6 A Not that I'm aware of. Not --
7 any classification where somebody is meeting
8 or exceeding the standard is not going to
9 affect pay. I don't know what it would do
10 with this does not meet standards area.

11 **Q Could it affect an employees's
12 potential for promotion?**

13 A That would depend on the weight
14 somebody put on it, you know, when they were
15 looking at it.

16 **Q So it could play a factor?**

17 A It could.

18 **Q I mean, if you were going to look
19 at a employee's record for promotion, would
20 you go back and look at the performance
21 appraisal?**

22 A Not necessarily. In terms of
23 going back and pulling a whole list of

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1 somebody's ratings, not necessarily.

2 **Q So, I mean, it sounds to me like
3 you're trying to say they're not very
4 important?**

5 A No. What I'm saying is if you're
6 looking at a promotion or if you're looking
7 at a job that's different than whatever that
8 person has done before, you might be looking
9 at a different skill set than what an older
10 evaluation might tell you.

11 Now, if you know that employee, you're
12 going to know whether they're coming to work
13 on time and whether they're, you know,
14 complying with rules and regulations and
15 that sort of things. If it's somebody
16 you've never met before, you know, then that
17 kind of information might -- you might not
18 know that already.

19 **Q So performance appraisals are
20 important to employees, correct?**

21 A I would think so, yeah.

22 **Q Let me -- I'm going to jump back
23 talking about this CSS III position again.**

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1 **We know it was sometime in late 2003 Mickey
2 Groggel was selected for this position. The
3 date we have here is December 10th, 2003.**

4 **Did you have any discussions with anyone
5 about Mickey Groggel being a good person for
6 this position?**

7 A With that group of people, Mickey
8 included, and all the people that were
9 applying, most of those people were really
10 very well known already. Their work history
11 was well known, what their job assignments
12 were well known. So going back and finding
13 out information probably wasn't part of that
14 process. It was probably based on whatever
15 we had in front of us and whatever our
16 knowledge was of those people.

17 **Q Okay. Let me go back to the
18 question. Do you remember discussing Mickey
19 Groggel for this position with anyone?**

20 A I don't remember it.

21 **Q Don't remember one way or the
22 other?**

23 A Don't remember one way or the

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1 other.

2 **Q Could have, you just don't
3 remember?**

4 A Could have, don't remember.
5 Could have discussed any of the people on
6 that list.

7 **Q Who do you think the best person
8 was for that position?**

9 A Well, since Mickey was selected,
10 I guess I would think it was her. I think
11 she had the -- she had the exact skill set
12 that we were trying to move the department
13 toward at that time, with background in
14 education testing. But I think I said in
15 the memo even that there were some really,
16 really good people in that interview pool.

17 **Q At that time period, who worked
18 more closely with Winifred, you or
19 Ms. London?**

20 A I guess we both did. It was a
21 very small office. Everybody, you know,
22 worked with everybody else. We were all
23 very -- in very close proximity to each

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<p style="text-align: right;">Page 97</p> <p>1 other.</p> <p>2 Q On this Plaintiff's Exhibit 11,</p> <p>3 you didn't grade Mickey the highest, did</p> <p>4 you?</p> <p>5 A No, I didn't.</p> <p>6 Q You graded Chris Allen?</p> <p>7 A Kathi Allen.</p> <p>8 Q Kathi Allen the highest with a</p> <p>9 23, correct?</p> <p>10 A Uh-huh.</p> <p>11 Q Next you graded Celestine</p> <p>12 Chappell with a 22, correct?</p> <p>13 A Correct.</p> <p>14 Q And then Mickey Groggel with a</p> <p>15 21, correct?</p> <p>16 A Correct.</p> <p>17 Q And all three of those are white</p> <p>18 employees we've established. You graded</p> <p>19 Ms. Blackledge with a 17, who would be next;</p> <p>20 Ms. Williams with a 12; Mr. Packer with a 8;</p> <p>21 and Ms. Ezell with a 16.</p> <p>22 A Uh-huh.</p> <p>23 Q Jerryln London graded</p>	<p style="text-align: right;">Page 99</p> <p>1 much, it's clearly the panel's subjective</p> <p>2 thoughts on what the grades were, correct?</p> <p>3 MS. TARVER: Object to the form.</p> <p>4 A I can't answer whether or not</p> <p>5 it's their subjective thoughts or how</p> <p>6 objective the criteria were at that time.</p> <p>7 Q But for you to grade</p> <p>8 Ms. Blackledge with a 17 and for Ms. London</p> <p>9 to grade her with a 30 --</p> <p>10 A We, obviously, had a difference</p> <p>11 of view.</p> <p>12 Q A difference of opinion?</p> <p>13 A Okay.</p> <p>14 Q Different view. Your subjective</p> <p>15 belief was that one candidate was better</p> <p>16 than the other, correct?</p> <p>17 MS. TARVER: Object to the form.</p> <p>18 A Okay.</p> <p>19 Q You can answer. Is that yes?</p> <p>20 A Yes.</p> <p>21 Q We have seven candidates on this</p> <p>22 list: Three white candidates and four black</p> <p>23 candidates. You graded the three candidates</p>
<p style="text-align: right;">Page 98</p> <p>1 Ms. Blackledge with a 30, which I don't know</p> <p>2 if that's the highest you can get but it</p> <p>3 appears to be very high. Ms. London graded</p> <p>4 Ms. Groggel with an 18. So she clearly felt</p> <p>5 that Ms. Blackledge was better suited for</p> <p>6 that position from what it looks like on</p> <p>7 this paper, correct?</p> <p>8 MS. TARVER: Object to the form.</p> <p>9 Q Sorry, what was your answer?</p> <p>10 MS. TARVER: Same objection.</p> <p>11 Q We got your objection.</p> <p>12 A The numbers would suggest that.</p> <p>13 Q And the numbers apparently played</p> <p>14 some factor in this, correct?</p> <p>15 A Yes. And we never determined</p> <p>16 exactly what these numbers were, whether it</p> <p>17 was just the interview or whether it was the</p> <p>18 over all package.</p> <p>19 Q But we knowed it played some</p> <p>20 factor?</p> <p>21 A That's a factor somewhere in all</p> <p>22 this.</p> <p>23 Q And because the numbers vary so</p>	<p style="text-align: right;">Page 100</p> <p>1 the highest and the four black candidates</p> <p>2 the lowest, correct?</p> <p>3 A Correct.</p> <p>4 Q Is it possible that any</p> <p>5 subjective bias played a role in your</p> <p>6 decision?</p> <p>7 MS. TARVER: Object to the form.</p> <p>8 A No.</p> <p>9 Q Do you find it odd that you</p> <p>10 graded the four black employees the lowest</p> <p>11 compared to the white employees?</p> <p>12 A No, not when you know everybody.</p> <p>13 Q Do you want a break or anything?</p> <p>14 A No.</p> <p>15 (Whereupon Plaintiff's</p> <p>16 Exhibit Number 16 was marked and</p> <p>17 attached to the deposition.)</p> <p>18 BY MR. WILSON</p> <p>19 Q I'll take one here shortly. I'm</p> <p>20 going to enter as Plaintiff's Exhibit 16.</p> <p>21 This is a stack of looks like about 30</p> <p>22 pages.</p> <p>23 MS. TARVER: All this is one</p>

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<p>1 exhibit?</p> <p>2 MR. WILSON: Yeah.</p> <p>3 MS. TARVER: Sixteen?</p> <p>4 MR. WILSON: Yeah.</p> <p>5 BY MR. WILSON</p> <p>6 Q Let me ask if you recognize these</p> <p>7 documents. If you can, tell me what they</p> <p>8 appear to be.</p> <p>9 A Okay. They look like rating</p> <p>10 sheets.</p> <p>11 Q Looks like rating sheets for the</p> <p>12 CSS III position?</p> <p>13 A That's what it looks like.</p> <p>14 Q And is this what you were</p> <p>15 referring to earlier about something you</p> <p>16 would fill out during the interview</p> <p>17 selection process?</p> <p>18 A Uh-huh.</p> <p>19 Q Yes?</p> <p>20 A Yes.</p> <p>21 Q And does this kind of refresh</p> <p>22 your memory about how you get this score</p> <p>23 here on Plaintiff's Exhibit 11?</p>	<p>1 from Personnel of the results of</p> <p>2 the interview process is why</p> <p>3 Ms. Stuardi didn't know about what</p> <p>4 this was and hadn't seen it. This</p> <p>5 is significant because a large</p> <p>6 part of why I believe the EEOC</p> <p>7 made a finding in this case is the</p> <p>8 fact that we could not produce the</p> <p>9 official record of the interview</p> <p>10 process.</p> <p>11 MR. WILSON: Let me object to</p> <p>12 that statement about your opinion</p> <p>13 about why the EEOC found cause.</p> <p>14 MS. TARVER: Fine.</p> <p>15 MR. WILSON: I don't believe that</p> <p>16 should be asserted right here.</p> <p>17 MS. TARVER: That's fine. That's</p> <p>18 my opinion and you're certainly</p> <p>19 subject to your objection. But,</p> <p>20 for the record, the Department of</p> <p>21 Mental Health in its production to</p> <p>22 the EEOC did not have these</p> <p>23 records available and, therefore,</p>
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<p>1 A Yes.</p> <p>2 Q So if we match up -- if you will</p> <p>3 flip to --</p> <p>4 MS. TARVER: Hang on a minute.</p> <p>5 For the record, these records that</p> <p>6 make up Plaintiff's Exhibit 16</p> <p>7 that Ms. Stuardi has just been</p> <p>8 provided are not records that came</p> <p>9 from the Department of Mental</p> <p>10 Health, and, in fact, have been</p> <p>11 the subject of some concern</p> <p>12 because the official record of</p> <p>13 this particular interview was</p> <p>14 lost. And that is why the earlier</p> <p>15 reference to Plaintiff's</p> <p>16 Exhibit -- I'm looking for 11,</p> <p>17 Josh.</p> <p>18 MR. WILSON: I'm sorry.</p> <p>19 MS. TARVER: Plaintiff's Exhibit</p> <p>20 11 that has been presented to</p> <p>21 Ms. Stuardi, she did not recognize</p> <p>22 seeing it, which I represent is a</p> <p>23 handwritten chart by John Owens</p>	<p>1 was unable to give the complete</p> <p>2 picture that we're normally able</p> <p>3 to give in a case like this. So</p> <p>4 the department will be propounding</p> <p>5 discovery related to where these</p> <p>6 documents came from and these</p> <p>7 documents had not been yet</p> <p>8 produced to the department as a</p> <p>9 part of our request for</p> <p>10 documentation from Ms. Blackledge.</p> <p>11 MR. WILSON: Okay. And I will</p> <p>12 just say that these documents were</p> <p>13 asked for in our discovery</p> <p>14 requests. Whether or not they</p> <p>15 were provided Friday when I got</p> <p>16 all the documents, I'm not sure.</p> <p>17 I know they were asked for, and</p> <p>18 whether or not there's in any in</p> <p>19 there or not, I'm not sure. I</p> <p>20 thought there were some in there,</p> <p>21 but they were asked for by the</p> <p>22 plaintiffs. And one reason why</p> <p>23 they were not given yet is because</p>

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<p style="text-align: right;">Page 105</p> <p>1 they were asked for and we would 2 naturally assume that they would 3 be in the possession of the 4 department. 5 MS. TARVER: Well, one of the 6 things that was provided in the 7 production was the department's 8 response to the EEOC, which was 9 supplemented, I believe, on more 10 than one occasion, and a large 11 part of that record demonstrates 12 that we did not have the documents 13 that are being referred to in 14 Plaintiff's 16. So with that, can 15 we take a break and copy these so 16 we can have a copy for our records 17 before you start going down this 18 road? 19 MR. WILSON: Sure. 20 (Whereupon, a short break was taken.) 21 MR. WILSON: Were we finished 22 with our conversation? 23 MS. TARVER: Let me say at this</p>	<p style="text-align: right;">Page 107</p> <p>1 in the documents we requested and 2 whether or not the department had 3 possession of them or not, I'm 4 unaware of. So -- 5 MS. TARVER: Okay. I will just 6 note that they are not Bates 7 stamped in accord with over 4,000 8 pages of documents we presented to 9 you. 10 MR. WILSON: Okay. 11 MS. TARVER: We have supplemented 12 the record and we have attempted 13 to identify in some way the record 14 since we provided you those over 15 4,000 pages of documents, and we 16 will continue to identify things 17 that are not Bates stamped in a 18 way we all can identify what was 19 given and what wasn't. 20 BY MR. WILSON 21 Q Ms. Stuardi, back to this -- the 22 documents that were handed and identified, 23 let's look at, for example, the second page</p>
<p style="text-align: right;">Page 106</p> <p>1 point I am not objecting to 2 Plaintiff's Exhibit 16. I just 3 want it clear for the record that 4 prior to this proceeding, the 5 department from the time the 6 interview was completed and the 7 records handed off to the Brewer 8 Personnel Department, which we 9 will get at in further 10 depositions, until now, we have 11 not had in our possession the 12 documents that Ms. Stuardi has 13 been presented and it has been a 14 concern of ours related to the 15 charges from the EEOC in this 16 case. 17 MR. WILSON: And, for the record, 18 those were documents we had 19 requested. I'm unaware -- I was 20 unaware of whether or not they 21 were in the production you gave 22 us. However -- sorry, lost my 23 train of thought. But they were</p>	<p style="text-align: right;">Page 108</p> <p>1 of those documents. And this is dated 2 December 5th, 2003. 3 A Uh-huh. 4 Q And interviewer name is your 5 name. Is this your handwriting? 6 A Yes. 7 Q Okay. And if we look back on 8 Plaintiff's Exhibit 11, the score listed on 9 that handwritten note, Plaintiff's Exhibit 10 11, is 21? 11 A Right. 12 Q And the score total here at the 13 bottom of Plaintiff's Exhibit 16, page 2, is 14 also 21, correct? 15 A Correct. 16 Q And so does it make sense that -- 17 can we tell now that the scores listed on 18 that handwritten note were based solely on 19 the interview process? 20 MS. TARVER: Object to the form, 21 but you can answer. 22 A That's what it appears, yes. 23 Q So those scores did not take into</p>

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